SHRI VAYALAR RAVI: Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: There is perfect order in the House.

RE. NOTICE OF ALLAHABAD HIGH COURT ON APPOINTMENT OF PRIME MINISTER

SHRI VAYALAR RAVI (KERALA): Madam, this is regarding a news item which appeared in the newspapers. I believe that the very propriety of Parliament has been questioned. I feel that this House must know what is happening. Here, I quote from the report which appeared in the *Hindustan Times* and then you will understand the point. It says: "The Allahabad High Court today issued notice to the Centre on a writ petition challenging the appointment of Mr. H.D. Deve Gowda as Prime Minister and fixed the matter for hearing on August 13." Madam, as per the Constitution, Shri Deve Gowda was appointed as Prime Minister by the President after fully ensurig that he enjoyed the majority support of the Members of the Lok Sabha. Madam, it is a very, very impmortant question. The President had followed all the conventions. After elections, when a hung Parliament came into being, the President observed all the formalities and followed every convention. Article 74 is very clear that there shall be a Council of Ministers. Then comes the question of the appointment of Prime Minister under Article 75(1). I quote: "This Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister." Accordingly, he made a decision. So, when the United Front was formed, the leaders of various political parties, including the Congress (I), jointly gave a letter to the President informing him of their support to the United Front Government. So, the President was satisfied that there was an absolute majority for the United Front to form the Government. Then, it was a conditional appointment. What was the condition? It was that the hon. Prime Minister would seek a vote of confidence on his Government in the Lok Sabha. Our hon. Prime Minister, in a short span of time, even before the last date which was fixed, won the vote of confidence and the Members of Lok Sabha accepted Shri Deve Gowda as Prime Minister of this country. Again, Madam, Article 75(1) is very clear.

Article 75(5) reads as follows and I quote:

> "A Minister who for any period of six consecutive months is not a Member of either House of Parliament shall at the expiration of that period cease to be a Minister."

What does this mean? It means that any person, even if he is not a Member of either House of Parliament, can be a Minister or a Prime Minister for six months. Such instances took place in the States. Now it has happened here. There were instances in the past also. The provision of the Constitution in this regard is very clear. Moreover, once Parliament accepts a Council of Ministers, it has become a part of it, a property of it. So, the notice of the Court amounts to a pure treaspassing into our domain. So far as the appointment of Prime Minister and other Ministers is concerned, it is the right of Parliament the right of the President, the power of the President. Once Parliament accepts the appointments, nobody in this country can question the validity of such appointments. Thus, the admission of the writ petition and issuance of a notice to the Government of India is beyond the scope of the Judiciary. It is unconstitutional. It is an infringement of the rights of this Parliament. Only this Parliament can say who the Prime Minister is. Nobody else or no other institution can question the wisdom of Parliament. Therefore, I want a direction from the Chair....(*interruptions*)....

SHRIMATI JAYANTHI NATARAJAN: Madam, they are straightway walking into our domain.

SHRI VAYALAR RAVI: I want a direction from the Chair to the Prime Minister and the Government of India not to appear before the Court or respond to its notice. This is what I want from the Chair.

श्री ईश दत्त यादव (उत्तर प्रदेश) : मैडम, श्री वायालर रवि जी ने जो कुछ कहा है, वह संविधान-सम्मत है। मैं इसका पूरा समर्थन करता हूं। संविधान के अनुच्छेद 74 और 75 में इसकी व्यवस्था दी गई है, जिसको वायालर रवि जी ने पढ़कर सुनाया है, इसमें राष्ट्रपति जी को पूरा अधिकार है कि किसे वह प्रधानमंत्री नियुक्त करें और प्रधानमंत्री की सलाह पर किसको वह मंत्री नियुक्त करें।

मैडम, जनतांत्रिक देश में जनतांत्रिक देश की जो व्यवस्था होती है, वह संविधान के अनुसार ही चलती है। हमारे देश का संविधान है और इस संविधान में कार्यपालिका, न्यायपालिका और विधायिका, सबकी संरचना की व्यवस्था है। यह जो राष्ट्रपति जी ने प्रधानमंत्री की नियुक्ति की है, वह एक बहुमत दल के या संयुक्त मोर्चा के सर्वसम्मत नेता हैं और उनको बहुमत हासिल है।

मैडम, हमारे देश में व्यवस्था रही है। इसके पूर्व में भी स्वर्गीय श्रीमती इन्दिरा गांधी, यहां तक मेरी जानकारी है वह किसी सदन की सदस्य नहीं थी, उनको देश की प्रधानमंत्री राष्ट्रपति जी ने नियुक्त किया था। इसी प्रकार यह जो हमारे भूतपूर्व प्रधानमंत्री रहे हैं नरसिंहराव जी, यह भी किसी सदन के सदस्य नहीं थे, इनको भी राष्ट्रपति जी ने प्रधानमंत्री नियुक्त किया था। मनमोहन सिंह जी सदन में बैठे हैं, यह वित्तमंत्री जब नियुक्त किये गये थे तब किसी सदन के सदस्य नहीं थे और मैं जानता हूं कि सरकार में एक इण्डस्ट्री मिनिस्टर भी नियुक्त हुए थे, नाम स्मरण नहीं आ रहा, वह भी किसी सदन के सदस्य नहीं थे। इसके लिए संविधान में व्यवस्था है कि 6 महीने तक कोई भी व्यक्ति प्रधानमंत्री या मंत्री रह सकता है और यह संविधान-सम्मत है। इसलिए उच्च-न्यायालय में जो यह याचिका प्रस्तुत की गई है, संयोग से प्रधानमंत्री जी भी उपस्थित हैं, मैं चाहूंगा कि सरकार को इसका नोटिस लेने की जरूरत नहीं है और न सरकार को कुछ कहने की जरूरत है, इस संविधान की एक प्रति वहां पर भेज देने की जरूरत है।

मैडम, आपने मुझे बोलने के लिए समय दिया, इसके लिए मैं आपका बहुत-बहुत अभारी हूं। धन्यवाद।

THE DEPUTY CHAIRMAN: Many people have raised their hands. I will call them one by one. They can express their views in the matter. But please express your views in the shortes possible time. Now, Shri Fernandes. I have identified Mr. Fernandes, Shrimati Jayanthi Natarajan, Shri Gurudas Das Gupta. Yes, I will call all those who want to speak on this subject.

SHRI JOHN. F. FERNANDES (GOA): Madam, I endorse the sentiments expressed by Shri Vayalar Ravi and Shri Ish Dutt Yadav.

SHRIMATI MARGARET ALVA (KARNATAKA): Madam, it is a fit case for impeachment.

SHRI JOHN F. FERNANDES: Madam, only yesterday we gave the Judges some sops. To some extent, we had also justified judicial activism saying that judicial intervention became necessary whenever there was a failure of the Government machinery.

Madam, appointment of a Prime Minister is an act of Parliament. It is an act of Parliament because the President is also a part of Parliament. This procedure, this act should be the sole property of Parliament. Nobody in this country should be allowed to question that act. The Government should not come into the picture. I think the Government should make it amply clear to the Judiciary that this is an act of Parliament. If incidents of this nature persist, it will be difficult for us to function effectively. I feel this House would be well within its right to summon the Judges concerned before the Hosue and reprimand them to behave well. This House has to act very firmly. The way we dealt with the impeachment motion last year is taken as if we are mild. Our mildness is taken as our weakness. We have to be very firm. Parliament has to assert itself. it is high time we did this. Enough is enough. I request the hon. Members, my colleagues and the whole House to join me and support my views in the matter.

Thank you, Madam Deputy Chairman.

SHRI GURUDAS DAS GUPTA (WEST BENGAL): Madam, I call upon the hon. Prime Minister not to take notice of the juidicial summons that has been issue. Let us, once for all, tell the judiciary that judicial over-activism will not be tolerated. It is not judicial activism, it is judicial over-activism. Therefore, let the hon. Prime Minister, as called upon to do so by the Parliament, not take note of the summons that has been issued.

Madam, the very important point is that the Father of the Indian Constitution had prescribed well-established norms for coordination between the judiciary, the executive and the legislature. If any attempt is made to intrude, if any attempt is made by one component of the state machinery to devalue the work of another component, that will be a perversion of the Indian Constitution and that will be against the mandate of the multitude and, therefore, that should be ignored because that is wrong and bad.

Madam, I feel the time has come for the Parliament not only to assert itself but the time has come to ensure that no aggression is committed in the territory of the Parliament. I suppose agression is being committed in the territory of the Parliament; that is against the norms of Parliament, norms of democracy and that may lead to anarchy. Therefore, it should be nipped in the bud. It should be nipped in the bud and we must say that the Government must call a halt to the attempt that is being made. It is wrong but, at the same time, Madam, I will also implore upon the Government, the executive and the Parliament to kindly consider whether any failure on the side of the Parliament or any failure on the side of the executive is being made use of by the judiciary. It may be that on occasions we had failed, on occasions....

THE DEPUTY CHAIRMAN: Mr. Gurudas Das Gupta, can you be a little brief?

SHRI GURUDAS DAS GUPTA: Just one sentence more, Madam. We must taken into consideraiton that in the recent period — and I am not making any political speech — there has been failure on the part of the...

THE DEPUTY CHAIRMAN: No. That should not be .....(*Interruptions*).. Mr. Gurudas Das Gupta, it is a very.....(*Interruptions*).

SHRI GURUDAS DAS GUPTA: Madam, I am not diluting...

THE DEPTUY CHAIRMAN: I am saying only one thing and that is, that we have a specific issue. Let us again, I must point out.....(*Interruptions*).

SHRI GURUDAS DAS GUPTA: Madam, I am very straight on my suggestions on over-activism of the judiciary. But may I suggest that Parliamentary failure is also causing judicial over-activism?

SHRIMATI JAYANTI NATARAJAN (TAMIL NADU) : If we do anything wrong, we pay the price for it; we lose elections. The Judges are not accountable.

SHRI M.A. BABY: Madam,.....

THE DEPUTY CHAIRMAN: I will call you after him. Yes, Shri Triloki Nath Chaturvedi.

SHRI TRILOKI NATH CHATURVEDI (UTTAR PRADESH) : Madam, Deputy Chairperson, I do not lag behind anybody else in this House in protecting the dignity, the rights and the privileges of the House. But when we talk of judicial activism, we should also not over-react to a situation. There have been cases like this even earlier. There have been cases even in the recent past and if I recall a right, in Tmil Nadu and in Karnataka, the Hihg Courts rejected such a Petition only recently.

Madam, Deputy Chairperson, the Parliament should not seek confrontation with the judiciary. It is known that the.....(*Interruptions*)... We should not needlessly seek confrontation with the judiciary or any other organ of the state.

SHRIMATI JAYANTHI NATARAJAN: It is they who are seeking it.

SHRI TRILOKI NATH CHATURVEDI: There have been cases earlier also when a particular State legislature — I won't name it — and the High Court of that State stood on prestige and then, the then Prime Minister, Pandit Nehru, and others had to intervene and with the help of the Chief Justice, resolve the issue. Here the Prime Minister and the Government have the opportunity to rise to the occasion and approach the Supreme Court. If somebody in the High Court or a judge of the High Court has passed any particular order, it should not be considered as a slur. On the other hand, it should be considered that yes, we are the people who abide by the Consititution and the dark days of the Emergency are not there. We should also not forget that the highest in the land, i.e. the President of India who is elected by both Houses of Parliament and State Legislature, had gone and appeared personally in the Supreme Court. Once the President of India also went before the court. So, it should not be considered as a slur.....(*Interruptions*)...

SHRIMATI JAYANTHI NATARAJAN: Which President?.....(*Interruptions*)...

SHRI TRILOKI NATH CHATURVEDI: Mr. V.V. Giri.

SHRI JOHN F. FERNANDES: For what?.....(*Interruptions*)...

AN HON. MEMBER: For an election petition.

SHRI JOHN F. FERNANDES: This is not an election petition...(*Interruptions*)...

SHRI TRILOKI NATH CHATURVEDI: I am not discussing the merits of the cases. I also know a little bit of the Constitution. But, immediately following yesterday's discussion about the judicial activism of the High Court and Supreme Court judges, this will be miscontrued not only by the Judiciary but also by all right-thinking people of this country, including the common citizens. So, inspite of differences and fully respecting the rights of the House and also fully respecting the dignity of the Prime Minister's office, I shall request, let us proceed constitutionally in this case so that it may not be said that we have needlessly sought a confrontation with the Judiciary. Let us go to the Supreme Court. ...(*Interruptions*)...

SHRI GURUDAS DAS GUPTA: Madam, the Constitution is not involved here.

SHRI M.A. BABY: Madam, ...(*Interruptions*)...

SHRI SIKANDER BAKHT: Madam, ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Sikander Bakht Saheb, I did not see your hand. Let me call Mr. Baby, then I will call you. ...(*Interruptions*)...

SHRI TRILOKI NATH CHATURVEDI: I did not interfere and intervene when my friend Mr. Gurudas Das Gupta was speaking. I expected that he would do the same when I would be speaking ...(*Interruptions*)...

SHRI M.A. BABY (KERALA): Thank you very much, Madam. I don't want to take much time of the House because in spite of what has been submitted by my hon. colleague Shri Chaturvedi, I think there is unanimity in this House that this particular summons issued by the court is not a camfoulaged attack on the rights of Parliament, but it is an open attack on the rights of Parliament.

Madam, having sated so, I should immediately add that nobody is arguing here or in the other House that anybody in this country is above the law. That is not our argument. Even the Prime Minister or the President may be, if he or she has committed a crime or offence under the law, he or she would have to be chargesheeted and summoned before the court of law; nobody would object to that. Here is an issue which is very categorically explained in the Indian Constitution — as to how the Prime Minister is to be appointed. On such a matter which is known even to the first-year student of Policitcal Science, a bench is issuing summons. I don't know how we should react to this. I don't want to react because we shoud not misutilise the privilege that we enjoy. Let us behave in a highly restrained and dignified manner. Therefore, I don't want to make any comment, but I would like to state that this summons is highly unconstituional, as we see it. Therefore, Madam, I don't want to advise the hon. Prime Minister as to how to deal with the sitaution— some hon. Members have advised the Prime Minister. I would request the Prime Minister to act according to the legal advice that he is entitled to get. Madam, finally I would also like to state that in view of these developments — I feel this is not an isolated case — It would be the responsibility of the Presiding Officers of both the Houses to consult and work out a line of action so that similar over-reactions from the judiciary over any arm of the Constitution would not be there in future. Thank you very much, Madam.

THE DEPUTY CHAIRMAN: There are many people now. I cannot call two-three people at a time. I will have to call them one by one. Now I call Mrs. Jayanthi.

SHRIMATI JAYANTHI NATARAJAN: Madam, I just want to add two sentences to what my colleagues have already said.

THE DEPUTY CHAIRMAN: Everybody is agreeing to the Constitution; there is no disagreement on the Constitution on which we have taken oath. If you have anything other than that it would be better. if you have the same thing, please say it briefly and your viewpoint is registered. We all are following the Constitution and we are bound to it by our own oaths.

SHRIMATI JAYANTHI NATARAJAN: Madam, I would just add two sentences to what had already been said. It has now become a crucial question of protecting the rights of the Parliament and protecting the Constitution also just as my colleagues before me have already spoken. Madam, it is a case of judicial activism that has gone too far and we have been noticing this trend in the recent times. Today the judiciary has set itself up as not only judiciary but also as a kind of super-Government and super-Parliament running the affairs of the nation in every respect. Madam, Mr. Gurudas Das Gupta has said that perhaps there has been Parliamentary failure; perhaps, there has been failure on our part also. Madam, while on the one hand I agree that there could have been some failure on our part, I do not think that it is within the jurisdiction of the judiciary to *suo motu* comment upon these issues because we, elected Members of Parliament and politicians, will go back to the people, face the people and we are accountable. Whereas, on the other hand, the judiciary is in no way accountable for the decisions which they take and this is the reason why judicial activism has gone too far. Madam, now this has gone beyond a point. We have watched in recent times with great pain and great anguish when they made remarks in general about Members of Parliament, about the functioning of the Parliament. They have made the most virulent attack on Parliament as on institution instead of confining themselves to the case of one or two individuals. Madam, this has caused great pain and anguish. This has brought down the reputation of the Parliament among the people at large. The Parliament has now become a laughing stock. Every day we are subjected to attacks, Madam. I would like to sit down after making one important point and I speak with utmost restraint and great respect. Judiciary itself has left a lot of scope for doubt in its conduct. Many members of the judiciary, Madam, have been guilty of conduct that is not irreproachable; they have been guilty of conduct which is not quite about board. We exercise great restraint. So many times you prevent us, Madam. It is not even a question of commenting on the judiciary.

Mr. Chaturvedi said that we are seeking a confrontation. We are not. On the contrary, Madam, every day you prevent us from sayng anything. Even on a matter of *sub-judice* we are not allowed. We exercise the greatest restraint in our dealings with the judiciary. Madam, we never take them on.

Madam, the second thing is, a hundred Members of Parliament have to sign a petition to impeach a judge and very rarely it is done. Only once has this been done in the history of Indian Parliament. We have never exercised our powers to bring these judges to book. We exercise that much restraint whereas a small court — a district court, a High Court, a lower court — and anybody can issue notices to the Prime Minister of India. A Magistrate can issue notice to the Prime Minister ! Madam, nobody is above the law. None of us says that we are above the law. In our private capacity, in our personal capacity, if anybody makes mistakes, this country has proved that the law of the land is superior to everything else. Madam, all of us go and face. Madam, in the election petition or any petititon in our personal capacity or in the capacity that we might have done something wrong, even the Prime Minister or anybody in this country is subject to the law of the land. None of us says that we are not subject to the law of the land but to send notice to the Prime Minister of India on a matter of election which has already been set down in the Constittuion, which is actually in effect questioning the judgment of the President of India, Madam, is nothing short of being outrageous. This is asking for trouble. This is taking on the entire institution of the President and Parliament. I think we have to put a stop to this. I am not in a position, Madam, to presume to advise the hon. Prime Minister, but I would plead with him, to tell him, that he is the repository of our rights. he represents the rights of Parliament. It is not the office of the Prime Minister alone that is being attacked; it is the entire Parliament, the rights of the Parliament to elect our Prime Minister, and the right of the people to elect their representatives to Parliament. The entire scheme of separation of powers which has been laid down in the Constitution is now in jeopardy. Therefore, I appeal to the Prime

Minister to protect our rights — maybe, he can talk to the Chairman or to the Speaker. But it is the responsibility — Madam, I would plead with great respect — of the Prime Minister to protect the rights of Parliament from unwarranted attack by the judiciary. This is the only way by which we can preserve democracy in this country. Madam, the Prime Minister should not respond to these summons. Thank you, Madam.

विपक्ष के नेता (श्री सिकन्दर बख्त): सदर साहिबा, मैं बहुत तजब्जुब की हालत में खड़ा हूं। मेरा कुछ कहने का इरादा नहीं था लेकिन बात निकली है तो फिर दूर तलक जाएगी। पहली बात तो मैं यह कहना चाहूंगा कि रवि साहब ने जो सवाल उठाया है, अहम सवाल है लेकिन उसको प्वाइंट ऑफ ऑर्डर के जरिए से नहीं उठाना चाहिए था। यह अहम सवाल है, इसे अहम सवाल के तौर पर ही उठाना चाहिए था। जो शिकायतें आम तौर पर मैम्बर्स हज़रात की तरफ से आई हैं, मैं अपने आप को वाबस्ता करता हूं उन शिकायतों से लेकिन उन शिकायतों के पैदा होने की वजह की तरफ से आंखें बंद कर लेने के हक में नहीं हूं। हिंदुस्तान का सियासी कारोबार सरकार चलाने का कारोबार, सब कुछ...कल ज़िक्र हुआ है कि तीन वाज़ेह सतूनों पर है और लाइन ऑफ डीमार्केशन तीनों की साफ-साफ मौजूद हैं। लेजिस्लेचर एक लाईन ऑफ डीमार्केशन है, ऐक्ज़ीक्यूटिव दूसरी लाईन ऑफ डीमार्केशन है, ज्यूडीशियरी तीसरी लाईन ऑफ डीमार्केशन है लेकिन आज ये लाईन ऑफ डीमार्केशन खत्म हो चुकी हैं। किसने खत्म किया है? इस सूरते-हाल को हम लेकर आए हैं। क्या हम इसको तसलीम करने के लिए तैयार हैं? 'Over judicial activism' is a terminology to which I do not agree to all, on the basis of the prevailing conditions....

देवेगौड़ा साहब प्रधान मंत्री हैं इस मुल्क के, हरेक को तसलीम करना ही पड़ेगा कि हैं, कोई इससे इंकार नहीं कर सकता है।

पार्लियामेंट के हुकूक की हिफाज़त करना हमारा फर्ज़ है लेकिन अगर पार्लियामेंट के हुकूक की पामाली ही हमारे ज़रिए से होने लगे और फिर ज्यूडीशियरी दखल दे, कंस्टीट्यूशन की पैदा की हुई इंस्टीट्यूशन्स को पामाल हम खुद करें और फिर ही शिकायत ज्यूडीशियरी से करें, यह कहां तक मुनासिब है? मैं देवेगौड़ा साहब के प्रधान मंत्री बनने के सवाल को ज़ेरे सवाल नहीं ला रहा हूं मगर मैं इस सवाल को ज़रूर लाना चाहता हूं कि हम लोग कितने ज़िम्मेदार हैं कि जिस पर आधार है हमारे पूरे मुल्क का पूरे मुल्क की सियासत का, उन लाईन्स ऑफ डीमार्केशन को रुईन किसने किया है? हमने किया है। मेरे...(**व्यवधान**)...मैं इस चीज़ से बिलकुल ऐग्री नहीं करता हूं। ...(**व्यवधान**)... I cannot agree to this terminology ...(*Interruptions*)... I am sorry.

मैं बहुत कुछ कह सकता हूं इस मामले में इस सदन में, दूसरे सदन में पालियामेंट में बैठकर कंस्टीट्यूशन की पैदा की हुई इंस्टीट्यूशन्स को पामाल किया गया है। इस सदन में बैठकर हमने पार्लियामेंट की पैदा की हुई इंस्टीट्यूशन्स को नकारा है, कौन देखेगा उसकी तरफ? हमने ज्यूडीशियरी को मजबूर कर दिया है कि यह ...(**व्यवधान**)...

†श्री सलंदर बख्त "मध्य प्रदेश"
सदर साहब - मैं बहुत तजबजब की हालत में
खड़ा हुआ हूं - मेरा कुछ कहने का इरादा नहीं था -
लेकिन "बात निकलेगी तो फिर दूर तक जाएगी" पहली
बात तो मैं यह कहना चाहूंगा कि रवि साहब ने
जो सवाल उठाया है - अहम सवाल है लेकिन
इसको "प्वाइंट ऑफ आर्डर" के ज़रिए से
नहीं उठाना चाहिये था - जो शिकायतें आम
तौर पर मेम्बर हज़रात की तरफ से आई हैं -
मैं अपने आपको वाबस्ता करता हूं - उन शिकायतों
से - लेकिन उन शिकायतों के पैदा होने की
तरफ से आंखें बंद कर लेने के हक में
नहीं हूं - हिंदुस्तान का सियासी कारोबार -
सरकार चलाने का कारोबार - सब कुछ ...
कल ज़िक्र हुआ है कि तीन वाज़ेह सतूनों पर है
और "लाईन ऑफ डिमार्केशन" तीनों की
साफ साफ मौजूद हैं - "लेजिस्लेचर" एक
लाईन ऑफ डिमार्केशन है - "एक्ज़ीक्यूटिव"

دوسری لائن آف ڈیمارکیشن ہے جیوڈیشری
تیسری لائن آف ڈیمارکیشن ہے لیکن آج یہ
لائن آف ڈیمارکیشن ختم ہو چکی ہیں۔ کسی
نے ختم کیا ہے۔ اس صورتحال کو ہم لے کر
آئے ہیں۔ کیا ہم اسکو تسلیم کرنے کیلئے تیار
ہیں۔]

Over Judicial activism' is a terminology to which I do not agree at all, on the basis of the prevailing conditions.

†[ڈیوگوڑا صاحب پردھان منتری ہیں
اس ملک کے ہر ایک کو تسلیم کرنا ہی پڑے گا
کہ ہیں۔ کوئی اس سے انکار نہیں کر سکتا ہے۔]

†[پارلیمنٹ کے حقوق کی حفاظت کرنا
ہمارا فرض ہے لیکن اگر پارلیمنٹ کے حقوق
کی پامالی ہی ہمارے ذریعے سے ہونے لگے اور
پھر "جیوڈیشری" دخل دے۔ کانسٹی ٹیوشن کی پیدا
کی ہوئی "انسٹی ٹیوشنس کو پامال" ہم خود کریں اور
پھر ہم شکایت جیوڈیشری سے کریں۔ یہ کہاں تک
مناسب ہے۔ میں ڈیوگوڑا صاحب کے پردھانی
بننے کے سوال کو نہیں سوال نہیں لا رہا ہوں مگر میں
اس سوال کو ضرور لانا چاہتا ہوں کہ ہم لوگ کتنے
ذمہ دار ہیں کہ جس پر آدھار ہے ہمارے پورے
ملک کا۔ پورے ملک کی سیاست کا۔ ان "لائن آف
ڈیمارکیشن کو روئل" کس نے کیا ہے۔ میرا "مداخلت"
میں اس چیز سے بالکل ایگری نہیں کرتا ہوں۔۔۔
۔۔۔مداخلت۔۔۔]

†Transliteration in Arabic Script

I cannot agree to this terminolgy ...(*Interruptions*)... I am sorry.

میں بہت کچھ کہہ سکتا ہوں اس معاملے میں۔
اس سدن میں۔ دوسرے سدن میں۔ پارلیمنٹ
میں بیٹھکر کانسٹی ٹیوشن کی پیدا کی ہوئی "انسٹی ٹیوشن"
کو پامال کیا گیا ہے۔ اس سدن میں بیٹھکر ہم نے پارلیمنٹ
کی پیدا وار کی ہوئی انسٹی ٹیوشن کو "نکارا" ہے۔
کون دیکھے گا اسکی طرف ہم نے جوڈیشری کو مجبور
کر دیا ہے کہ یہ۔۔۔ "مداخلت"۔۔۔]

SHRI JOHN F. FERNANDES: The BJP had defied the Supreme Court ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: One minute, please ...(*Interruptions*)... Sikander Bakht Saheb, one minute.

श्री सिकन्दर बख्त: मेरी बात सुन लीजिए आप। ...(व्यवधान)...

†[شری سکندر بخت: میری بات سن لیجئے
آپ۔۔۔ مداخلت۔۔۔]

THE DEPUTY CHAIRMAN: Sikander Bakht Saheb, one minute please ...(*Interruptions*)... I am sorry ...(*Interruptions*)...

श्री सिकन्दर बख्त: मैं वहीं आ रहा हूं। मेरा कहना यह है कि कल तक जो इंस्टीट्यूशन्स काबिले ऐहतराम थीं इस पूरे मुल्क में, आज वे तमाम इंस्टीट्यूशन्स... There is cloud over them. लम्बी-चौड़ी बातें करने से कुछ फायदा नहीं। बात को प्रधान मंत्री जी के प्रधान मंत्री बनने तक महदूद रखिए और बहुत ज्यादा ज्यूडीशियल ओवर ऐक्टिविज्म का जिक्र करने की जरूरत नहीं है, मेरा बिलकुल इसके कहने पर इख्तलाफ है।

†[شری سکندر بخت: میں وہیں آ رہا ہوں۔ میرا
کہنا یہ ہے کہ کل تک جو انسٹی ٹیوشن قابل احترام
تھیں اس پورے ملک میں آج وہ تمام انسٹی ٹیوشنس
بھی چوڑی باتیں کرنے سے کچھ فائدہ نہیں بات
تو پردھان منتری جی پردھان منتری جی بننے تک

محدود رکھئے اور بہت زیادہ "جوڈیشیل اوور ایکٹیوٹیز" کا ذکر کرنے کی ضرورت نہیں ہے میرا بالکل اسکے کہنے پر اختلاف ہے۔

THE DEPUTY CHAIRMAN: Just one minute.(*Interruptions*).. I want order. Before I ask the next person to say something...(*Interruptions*)... Order, please. I want to put it on record, as hon. Member, Shrimati Jayanthi Natarajan also mentioned, that the Presiding Officers have taken great care and responsibility in trying to keep under check the Members' contribution or speeches in the House. Wherever we find that there is any matter which is before the court we do not allow it to be mentioned here. I can give an instance of yesterday. When a Member from Tamil Nadu was making some statment there was some objection. Then I made the Member clarify if the matter was before the court and was in any way going to affect the judgment of the court. To that extent we are careful. So Shri Sikander Bakht, we have tried in this Hosue to keep complete restraint not to interfere in the individual and free functioning of the judiciary. This matter, if I can say, is only limited to Article 75 which Mr. Vayalar Ravi has mentioned. I would request the hon. Members, pelase confine yourselves to the specific issue and not go beyond this. That would be the most important aspect you must keep in mind.

श्री एस. एस. अहलुवालिया (बिहार): उपसभापति महोदया, इलाहाबाद हाई कोर्ट के इस नोटिस के संबंध में, मैं कहना चाहता हूं कि हमारे संविधान के अनुच्छेद 75 में साफ लफ्जों में लिखा है कि प्रधान मंत्री की नियुक्ति राष्ट्रपति करेगा यह सिर्फ राष्ट्रपति के अधिकारों को चैलेंज नहीं किया गया बल्कि संविधान के अनुच्छेद 122 के तहत जहां कहा गया है कि न्यायालयों द्वारा संसद की कार्यवाही की जांच नहीं किया जाना। एक तो राष्ट्रपति महोदय ने अनुच्छेद 75 के तहत प्रधान मंत्री नियुक्त किया और दूसरे लोक सभा ने अपने सदन की बैठक बुलाकर वोट आफ कांफीडेंस के माध्यम से प्रधान मंत्री को स्थापित किया और उन पर पूरा भरोसा जताया। इन दोनों अनुच्छेदों को चैलेंज करते हुये यह सम्मन जारी किया गया है। हमारी माननीय सदस्या अभी कह रही थीं कि जुडिशियल एक्टीविज्म शुरू हुआ है। हमारे विपक्ष के नेता इस टर्मनोलोजी का विरोध कर रहे थे। मैं इससे जरा कुछ उपर जाना चाहता हूं। यह सिर्फ एक्टीविज्म नहीं, यह न्यायपालिका का *शुरू हुआ है, यह *हैं ...(**व्यवधान**)... यह * शुरू हुआ है। ...(**व्यवधान**)...

SHRI TRILOKI NATH CHATURVEDI: Madam, I object to this. This word should not be used.

THE DEPUTY CHAIRMAN: That will not go on record.

SHRI S.S. AHLUWALIA: Madam, it is not unparliamentary.(*Interruptions*).

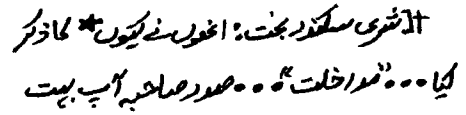
THE DEPUTY CHAIRMAN: Please sit down. .(*Interruptions*) It is not a question of Parliamentary of unparliamentary. Mr. Ahluwalia, I made it is very clear, the subect is very specific. If you have to discuss the conduct of the judiciary vis-a-vis Parliament, I would request you to take some other forum or any other discussion in a larger interest. But the permission which has been granted by the Chair is to a specific matter which is before us and I am very pained to say this. We are known for keeping restraint. Let us not break th tradition. As I said, please confine yourself to this. We are strong on a point as far as the Constitution is concerned; that it is a must because our country has a Constitution and when you have the Constitution with you, you do not need the words in the dictionary of any language. You just note this.

श्री एस. एस. अहलुवालिया: महोदया, मैं आपसे सहमत हूं। ये* के नाम से घबरा क्यों जाते हैं...(**व्यवधान**). आपने जहां तक संविधान की बात कही ...(**व्यवधान**). जब आपने तीन-तीन एफिडेविट दिये और बाबरी मस्जिद को ढहा दिया(**व्यवधान**)

THE DEPUTY CHAIRMAN: Now, let us not dilute the issue. Unfortunately, what happens when I allow a large number of Members to speak, the issue is always diluted. Nothing will go on record..... (*Interruptions*)..

श्री सिकन्दर बख्त: इन्होंने क्यों* का जिक्र किया ... (**व्यवधान**)... सदर साहिबा आप बहुत दूर जा रही हैं। मुझे बताना पड़ेगा कि ये लोग पार्लियामेंट के कितने गुनाहगार हैं ...(**व्यवधान**)...

* Expunged as ordered by the Chair.



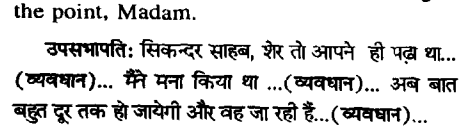
श्री एस. एस. अहलुवालिया: कौन गुनाहगार है और कौन नहीं है, इसकी गवाही देश देगा ...(**व्यवधान**)...

THE DEPUTY CHAIRMAN: *Let us not go to.....(Interruptions)*...

SHRI S.S. AHLUWALIA: I am coming to the point, Madam.

उपसभापति: सिकन्दर साहब, शेर तो आपने ही पढ़ा था... (**व्यवधान**)... मैंने मना किया था ...(**व्यवधान**)... अब बात बहुत दूर तक हो जायेगी और वह जा रही है...(**व्यवधान**)...

सिकन्दर बख्त: सदर साहिबा, मैंने बड़ी एहतियात से शेर पढ़ा था।...(**व्यवधान**)...कहां तक भेजना चाहती हैं. ...(**व्यवधान**)...



श्री एस. एस. अहलुवालिया: मैडम संविधान के 122 अनुच्छेद के तहत यह दिया हुआ है कि यह इस सदन की किसी भी कार्यवाही के ऊपर कोई खोजबीन नहीं करेगा और हमने अपनी रूल बुक में लिखाया है कि जो मामला सब-जुडिश है, उस पर हम डिस्कशन नहीं करेंगे। आज सुबह प्रधान मंत्री ने गुजरात के पावर स्टेशन पर बात की तो आप लोगों ने उठकर कहा कि यहां सब जूडिशि की बात नहीं हो सकती। हम उसको मान लेते हैं। न्यायालय उसको क्यों नहीं मानता, न्यायालय ने क्यों* फैलाया हुआ है? ...(**व्यवधान**)...

THE DEPUTY CHAIRMAN: I am not allowing this word "Athank" You may use any other word. Mr. Ahluwalia don't reduce your stature as a Member of Parliament. You are an hon. Member of the highest elected office of this country. It is necessary for you to keep your dignity. You maintain your dignity. आपको थोड़े ही कहा है, आप लोग बैठ जाइये।...(**व्यवधान**)...

श्री एस.एस. अहलुवालिया: ओ.के. मैडम, मैं* की जगह दूसरी बात कहना चाहता हूं कि न्यायपालिका डरा क्यों रही है लोगों को और यह डर और भय का वातावरण क्यों हो रहा है? न्यायपालिका विश्वास की चीज है। ...(**व्यवधान**)...

श्री त्रिलोकी नाथ चतुर्वेदी: न्याय का लोगों को डर होता है ...(**व्यवधान**)...

श्री एस.एस. अहलुवालिया: न्याय पर लोगों का विश्वास होता है, न्याय धर्म है। इस देश में नक्सलवाद क्यों पैदा हुआ? जब लोगों को न्याय नहीं मिला तो नक्सलवाद पैदा हुआ। इस देश में लोगों ने अस्त्र-शस्त्र क्यों उठायें ...(**व्यवधान**)...

श्री त्रिलोकी नाथ चतुर्वेदी: वह न्याय की वजह से नहीं हुआ, वह एक्जीक्यूटिव की वजह से हुआ है।

श्री एस.एस. अहलुवालिया: यह आपके कारण हुआ, आप होम सेक्रेटरी थे।...(**व्यवधान**)... उस समय मैं स्कूल में पढ़ता था और आतंकवाद का सामना करता था। आप जब गृह सचिव थे उस समय यह हो रहा था।....(**व्यवधान**). ..महोदया, एक पुरानी कहावत है और यह गाना पंजाब में बड़ा मशहूर था कि:

सच्चे फांसी चढ़ते देख झुठे मौज उड़ायें,
आप लोग कहन्द रब दी माया मैं कहन्दा अन्याये।

न्याय करने के नाम पर युग-युगान्तर से लोगों से यह प्रतिवाद उठाया है। जब अपना काम छोड़कर, संविधान के अधिकारों को छोड़कर अलग से जब कोई सोचने लगता है और भय का वातावरण पैदा करता है तब इस तरह की आवाजें उठती हैं। महोदया, इस सदन में बैठने वाले, इस टैम्पल आफ डेमोक्रेसी के नीचे बैठने वाले लोग संविधान की रक्षा करने के लिए बैठे हैं और संविधान के माध्यम से न्यायपालिका, कार्यपालिका और विधायिका, सब को अलग अलग काम दिए गए हैं। जिस तरह से हम उनके काम में कोई अड़चन नहीं डालते हैं, उनको भी हमारे काम में और संविधान की तमाम व्यवस्थाओं को ताक में रखकर हमें नोटिस देने का कोई अधिकार नहीं है। महोदया, इस चीज का फैसला करने की जरूरत है और सदस्यों ने भी यह बात उठाई है। मैं आपके सामने गुजारिश करना चाहता हूं कि हम कन्फ्रन्टेशन नहीं चाहते। डेमोक्रेसी के डिफरेंट पिलर्स में कन्फ्रेंटेस नहीं होना चाहिए। किन्तु इसका तरीका यह नहीं है कि किसी की तरफदारी की जाए। किसी की तरफदारी किए बगैर जो भी सर्वोच्च है, राष्ट्रपति के अधिकार जो हैं अनुच्छेद 75 में, उनको चैलेंज किया गया है। आज पार्लियामेंट के अधिकार 122 अनुच्छेद में जो हैं उनको चैलेंज किया गया है। इस सारी चीजों पर कहीं न कहीं रोक या अंकुश लगाने की जरूरत है। चाहे कितना ही बड़ा क्यों न हो, महावत एक छोटे से अंकुश से उस पर कंट्रोल करता है।

* Expunged as ordered by the Chair.

आज किसी की ताकत चाहे कितनी ही बड़ी क्यों न हो, उस पर अंकुश लगाने की जरूरत है। इस अंकुश के लिए मैं आपके माध्यम से मांग करूंगा कि एक जूडीशियल कमीशन सेट-अप किया जाए, जिसके माध्यम से उनको बताया जाए कि आपके अधिकार क्या हैं। अभी परसों ही एक सवाल के जवाब में हमारे ला मिनिस्टर ने बताया कि कोर्टों में 2 करोड़ 50 लाख केसेज पेंडिंग पड़े हैं। आप न्याय की बात करते हैं? यह जो 2 लाख 50 हजार केसेज पेंडिंग पड़े हैं, यह क्यों पड़े हैं?

उपसभापति: अहलुवालिया जी, आप ...(व्यवधान) आलोचना नहीं प्लीज।...(व्यवधान)...

श्री एस.एस. अहलुवालिया: संविधान को ताक पर रखकर...(व्यवधान)... आप नोटिस इश्यू करते हैं। अगर आप संविधन के तहत काम करते हैं तो उसके तहत की आपको काम करना पड़ेगा। इस फोरम के अंदर की आपको काम करना पड़ेगा। आपको* और भय का वातावरण...

THE DEPUTY CHAIRMAN: The word "Athank" is not going on record again. Mr. Ahluwalia, I must restrain you. Don't take it so easily. If I give my ruling, I give my ruling and I mean that it should not go on record.

SHRI S.S. AHLUWALIA: Madam, you have given your ruling. I do not mind that. But you must give justification for this ruling.

THE DEPUTY CHAIRMAN: I am not giving any justification. Please sit down.

SHRI S.S. AHULUWALIA: There is no justification. It is not an unparliamentary word.

* Expunged as ordered by the Chair.

THE DEPUTY CHAIRMAN: Mr. Ahluwalia, I have been legally elected by his House to perform my duties. You cannot challenge me. You can challenge others. According to the Constituion, I have been given this job and I am doing my job to the best of my ability. You cannot challenge me. ...(*Interruptions*)..

SHRI E. BALANANDAN: Madam, we are discussing only a single question — a reference by one judge. The issue raised...

THE DEPUTY CHAIRMAN: Just a minute. I will read out from the book which says what is parliamentary and what is unparliamentary. It says: "'judicial conspiracy' is unparliamentary". In my opinion, and in the opinion of the House, the use of the word "Terrorism" against the judiciary is unparliamentary. If it is not unparliamentary, from today, it is going to be unparliamentary. .(*Interruptions*). This is not the way. What is parliamentary and what is unparliamentary is not decided by the Constitution. These words have been decided by the various Presiding Officers in the course of discussions that took place in the House. That's why I am saying, don't say anything to me. I know how to manage these things.

SHRI E. BALANANDAN (Kerala): Madam, I want to speak only two, three sentences. The issue raised by Shri Ravi was confined only to one judgement, one direction in Gujarat...(*Interruptions*)... Don't go into generalization of the issue, that agressive judicial activism has come in the way. Madam, my humble suggestion to the Prime Minister, through you, is that the law itself gives protection. The Constitution gives ample protection to us. Therefore, the Prime Minister can easily take protection of the Constitution and deal with the subject. Nothing more is wanted now. Creating all this heat was for some other purpose, which is not wanted in this House.

THE DEPUTY CHAIRMAN: I have got so many names. Yes, Mr. Krishna. I do not know what you want to add to what is already said.

SHRI S.M. KRISHNA (Karnataka): Madam, I would like to amend what my esteemed friend, Mr. Gurudas Das Gupta said. He talked about judicial "over-activism" and our other esteemed friend, Mr. Ahluwalia, extended that a little further. I would like to strike a balance between the two. Today the judiciary is indulging inhyper-activism, not necessarily over-activism. .....*(Interruptions)*... It is perfectly parliamentary-hyper-activism.

All of us who stand here before you, respected Deputy Chairperson, have the greatest respect for the judiciary and for the judicial process. All of us, when we are in difficulties, seek the protection of the law courts to uphold our fundamental rights—the liberty of speech, the liberty to move and the liberty of expression. Now, I do not have to go into the track record of the Allahabad High Court. It has a history and it has created history.

SHRI TRILOKI NATH CHATURVEDI: It is not proper to say track record of... *(Interruptions)*...

THE DEPUTY CHAIRMAN: He used the word "history."

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: And history exists!

उपसभापति: आप हर वर्ड पर किसी का मुंह बन्द नहीं करेंगे **(व्यवधान)** अंग्रेजी जबान में ...**(व्यवधान)**

श्री त्रिलोकी नाथ चतुर्वेदी: अगर हिस्टरी आफ फेक्ट्स, ट्रैक रिकार्ड की बात करते हैं तो उससे बहुत सी चीजें आ जाती है **(व्यवधान)** वैसे आपकी आज्ञा शिरोधार्य है **(व्यवधान)**

उपसभापति: चतुर्वेदी जी देखिये, आप भी इस हाऊस के मैम्बर हैं. Many times you speak. So, let the Member speak. He is confining himself to the subject much better. That is the point.

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: The important point is freedom of speech!

SHRIMATI JAYANTHI NATARAJAN: It is strange to see the BJP championing the cause of the courts!

SHRI TRILOKI NATH CHATURVEDI: The courts can take care of themselves. They have taken care of themselves during the Emergency also—it is not for me. I am much too small a person to defend the courts. I think Mrs. Margaret Alva should not worry about it. She herself appears before the courts.

..... *(Interruptions)*....

THE DEPUTY CHAIRMAN: I don't understand.

SHRI SURINDER KUMAR SINGHLA:*

THE DEPUTY CHAIRMAN: I am not allowing it. It is not going on record. Please sit down. No such remarks are going on record.

Some Members spoke about the seriousness of the subject, to raise this issue. Because they felt that the issue was serious, we allowed it to be raised. When Members feel that a matter is important and when it is allowed if you are going to make personal attacks on each other, I think it is not proper. Confine yourself to the matter which is before you. If you want to speak something else, please request the hon. Chairman and, if he permits you, you can discuss anything you like, the rules and regulations permitting.

SHRI S. M. KRISHNA: Madam, I am not going beyond....

THE DEPUTY CHAIRMAN: I am not telling you. You are within your rights. There are other cross-talks going on. These unguided missiles keep falling on each other.

SHRI S. M. KRISHNA: I fail to understand hon. friend, Chaturvedi's sensitiveness or hypersensitiveness about the very mention of the track record of the Allahabad High Court. I did not insinuate the High Court. ... *(Interruptions)*

I did not want to insinuate the High Court.

SHRI SIKANDER BAKHT: Just give me one minute.

SHRI S. M. KRISHNA: I yield the floor to the Leader of the Opposition.

श्री सिकन्दर बख्त: सदर साहिबा, बदकिस्मती यह है कि एक बुनियादी सवाल ...**(व्यवधान)**... जरा चतुर्वेदीजी, एक मिनट प्लीज...प्रधान मंत्री जी के तकरूर का है।

* Not recorded.

तमाम हाउस उससे यूनैनिमस है कि हम पार्लियामेंट के हुकूक की रक्षा कैसे करें। तमाम हाउस उससे यूनैनिमस है। इन दोनों बातों पर अगर मुतफिक है। हम लोग तो इस बात को खत्म करें बजाए इसके कि कोसों और मीलों में बात को लेकर जाएं। हम जहां तक जानते हैं...(व्यवधान) अगर प्रधान मंत्री जी के तकर्रूर और पार्लियामेंट के हुकूम की हिफाजत की बात रखें तो किसी को भी इख्तिलाफ नहीं होगा। इसलिए मैं अर्ज करना चाहता हूं कि अगर हम महदूद करें इस बहस को तो यह ज्यादा मुनासिब होगा।

†[इसपर उपसभापति "शुक्रिया सिकन्दर बख्त" : सदर साहब - बदकिस्मती यह है कि एक बुनियादी सवाल ... "मदाखलत" ... जरा इधर देखिये एक मिनट ... पर रविशंकर शुक्ल जी के तकरीर का है - तमाम हाउस इस बात "यूनैनिमस" है कि हम पार्लियामेंट के हुकूक की हिफाजत कैसे करें तमाम हाउस इस बात "यूनैनिमस" है - इन दोनों बातों पर अगर मुतफिक हैं हम लोग तो इस बात को खत्म करें बजाए इसके कि कोसों और मीलों में बात को लेकर जाएं - हम जहां तक जानते हैं ... अगर प्रधान मंत्री जी के तकरीर और पार्लियामेंट के हुकूम की हिफाजत की बात रखें तो किसी को भी इख्तिलाफ नहीं होगा - इसलिए मैं अर्ज करना चाहता हूं कि अगर हम महदूद करें इस बहस को तो यह ज्यादा मुनासिब होगा]†

उपसभापति: सिकन्दर बख्त साहब, अगर आप इतनी देर से सुन रहे होंगे, जो 40-50 मिनट बात हुई है, अगर आप कल रिकार्ड पढ़ेंगे तो मैंने शायद 25 दफा तो उसमें यह कहा होगा कि लिमिट योरसेल्फ टु द सब्जेक्ट।

श्री सिकन्दर बख्त: ठीक है ...(व्यवधान)...उस पर इत्तिफाक करिए रवि ने जो सवाल उठाया है। उसमें और कहां कोसों में ले जा रहे हैं।

†[शुक्रिया सिकन्दर बख्त : ठीक है "मदाखलत" इस पर इत्तिफाक करिये रवी ने जो सवाल उठाया है उसमें और कहां कोसों में ले जा रहे हैं।]†

SHRI S. M. KRISHNA: Madam, I was mentioning about the track record of the Allahabad High Court.

SHRI K. R. MALKANI (Delhi): It is a reflection on the Allahabad High Court.

SHRI S. M. KRISHNA: It is not a reflection.

SHRI K. R. MALKANI: Madam, you have to give your ruling. He is talking of the track record of the Allahabad High Court. Tomorrow he will say that about the Supreme Court. ... (*Interruptions*)

SHRI N. K. P. SALVE (Maharashtra): It is a glorious track record. What is wrong in that record?

THE DEPUTY CHAIRMAN: I could not even hear what he said. Before he mentioned a word, you got up. I could not even hear the word that you are objecting to.

SHRI S. M. KRISHNA: Madam, I mentioned only about the track record of the Allahabad High Court.

THE DEPUTY CHAIRMAN: Don't make it political. Confine yourself to the subject.

SHRI S. M. KRISHNA: They are trying to make it political. I am not politicising the matter.

SHRI K. R. MALKANI: Can he comment on the track record of the High Court? ...(*Interruptions*)

THE DEPUTY CHAIRMAN: There is nothing for me to give a ruling on. There is nothing to be said on it. **मिस्टर कृष्णा, आप बोलिए।** Mr. Krishna, you speak. It is not necessary that I should give a ruling on every world said in the House.

SHRI S. M. KRISHNA: It is this very High Court which had almost brought about a near confrontation between Legislative and the judiciary. Let us not forget about that.

†[ ]Transliteration in Arabic Script.

SHRI K. R. MALKANI: What was that? ... (*Interruptions*)

SHRI S. S. AHLUWALIA: Why is the interrupting? ... (*Interruptions*)

SHRI K. R. MALKANI: What was the confrontation? What confrontation is he referring to? ... (*Interruptions*)

THE DEPUTY CHAIRMAN: Mr. Malkani, when he speaks, you say that he should not speak.

SHRI K. R. MALKANI: Nobody said that.

THE DEPUTY CHAIRMAN: I heard that. When he says something in an indirect manner, you say that he should put on record what he is saying. Now, tell me the way in which he can make his speech. Could you guide him?

SHRI K. R. MALKANI: Madam Deputy Chairman, we seek your protection. He has talked of the track record of the Allahabad High Court. He has talked about the confrontation between Parliament and the judiciary. We want to know what he is referring to. ... (*Interruptions*)

THE DEPUTY CHAIRMAN: He is mentioning about the matter which was raised by Mr. Vayalar Ravi in this House in relation to a notice issued which is appearing in newspapers. Mr. Vayalar Ravi referred to article 75 of the Constitution and some other thing. Now, are you objecting to it? If not, let him speak.

SHRI S. M. KRISHNA: So, this near-confrontation was fortunately avoided by the wisdom of those Members of Legislative and the Members of the then judiciary. This was the reason why in early 70s the late lamented Nath Pai brought a Bill in the lower House, when he felt that there were certain tendencies created in the judiciary to go far beyond the demarcation which has been specifically spelt out for it in the Constitution of India. But, unfortunately, he died. The Lok Sabha was dissolved and the Bill also lapsed. Now, is it Mr. Malkani's suggestion that we should again start with the late lamented Nath Pai's Bill? As I have already said, we have got the greatest respect for the judiciary. (*Interruptions*)

THE DEPUTY CHAIRMAN: Now, will you complete, because there are two or three more speakers, who want to speak on this? And you yourself had been a Speaker.

SHRI S. M. KRISHNA: I am aware of the time constraint imposed on me. I thank you, Madam, for your indulgence. Madam Chairperson, in the name of the public interest litigation some of the havocs are being caused. I quote one example from my home State. Under a public interest litigation a contempt notice was served on the Government of Karnataka, because two or three houses were not provided to Judges of the High Court. What is the public interest involved in it? Are these not matters which can be settled through the Registrar of the High Court of Karnataka and the Chief Secretary of Karnataka? Should courts use their judicial power to get two or three quarters for the judges of the High Court of Karnataka? I think a time has come for the Parliament, which is the supreme elected body, the custodian of the Constitutional rights and the President of this country, who is the custodian of the Constitution of India, who, in his wisdom, has identified Shri Deve Gowda as Prime Minister of this country, to assert themselves. What business the courts have to entertain such frivolous petitions? There are thousands of people in this country, who are habitual litigants. Are we going to entertain all such petitions and this sort of notices on the Government of India? Madam, in may humble opinion—it is not a suggestion—the notice which the Allahabad High Court has served on the Government of India, must be treated with the contempt that it deserves.

SHRI R. MARGABANDU (Tamil Nadu): Madam, I would like to say that there is a silver line drawn between the judiciary, the excutive and the legislature. Parliament legislates laws, whereas the judiciary interprets the law. Whatever verdict is given by the court—whether it is bad or good judgment, unless it is set aside—that stands as a good judgment. Whatever the courts say becomes the law of the land. Therefore, they are expected to have more restraint while entertaining applications of legislatures.

Now, this proposal leads us to consider whether judiciary is supreme or the legislature or Parliament is supreme. Again it is a debatable matter. If it is a debatable matter, who is to arbitrate on it? Once again, it has to go to the court of law. It is only the court of law, which is going to decide, who is supreme—the Parliament or the judiciary. So, let there not be any confrontation between judiciary and Parliament. At the same time, the provisions of the Constitution have to be safeguarded. Therefore, I appeal to this august House that there should be a judicial scrutiny before talking up any matter in congnisance. With these words I close my speech.

THE DEPUTY CHAIRMAN: There is one minute to launch and Shrimati Renuka Chowdhury also wants to speak on this.

1.00 P.M.

We have got Special Mentions. The Member thought that this was a very, very special mention. That is why everybody spoke on it. This was cleared by the Chairman.

SHRIMATI MARGARET ALVA: This subject is closed.

THE DEPUTY CHAIRMAN: Yes, that subject is closed. Everybody made his point.

SHRI M. A. BABY: What about the ruling?

THE DEPTUY CHAIRMAN: Now, I have to deal with the matters which the Chairman has permitted as Special Mentions. We have to discuss the Railway Budget also. We have not many days of sittings.

श्री ओ. पी. कोहली: मैडम, जीरो ऑवर?

उपसभापति: आप जरा कान में आला लगाकर सुना कीजिए, वही बोल रही हूं मैं। ...(**व्यवधान**)

श्रीमती रेणुका चौधरी: मैडम।...(**व्यवधान**)

उपसभापति: जी, आप अगर इसमें बोलेंगी तो बोल दीजिएगा वरना इस विषय पर, On the matter, everybody has spoken. ... (*Interruptions*)..

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. U. VENKATESWARLU): Madam, one issue has taken full one hour. I suggest that let us skip over Special Mentions and go in for a discussion on the Railway Budget because there are ever so many issues.

THE DEPUTY CHAIRMAN: Mr. Minister, why don't you request Members to skip the lunch hour? You offer them lunch outside so that group-wise they can go and have lunch. I think these are. .. (*Interruptions*)..

DR. U. VENKATESWARLU: Madam, we can skip the lunch hour and then continue with the business.

THE DEPUTY CHAIRMAN: Are you giving lunch to Members so that they can do the rest of their duty? ..(*Interruptions*).. They were saying that you have no objection about the suggestion. I should take it as what?

DR. U. VENKATESWARLU: Madam, there is no objection to provide amenities to Members. Our intention is to keep the Members well. The only this is time factor.

... (*Interruptions*)...

THE DEPUTY CHAIRMAN: Okay, Today, if the House so agrees, we won't have any lunch break. After Shrimati Renuka Chowdhury, this matter would be closed. We could have to take up other matters which have been cleared by the Chairman. We should be able to clear them within two hours. After that we have to take up the Railway Budget for which two days have been allotted. We don't have enough time. We have got other business also.

रेणुका जी, आप संक्षेप में इस विषय पर बोल दीजिएगा।

SHRIMATI RENUKA CHOWDHURY (Andhra Pradesh): Madam Deputy Chairman, much has been said about his issue from all sides of the House. There is a lot on which I agree with him; and there is a lot on which I would apply judicious restraint.

Madam, we are protected by certain privileges. It would be in the fitness of things for us not to abuse those privileges, not to misuse those privileges whereby a situation like this is given rise to.

I would also like to place on record the excesses committed both by the judiciary and the executive. The unhappy situation that has arisen today has sensitised the people nationwide with we are fostering aggresively across the divided line. This is disheartening. It could send a wrong message across to the people

whereby they would look to us collectively as keepers of the Constitution and protectors of their rights.

So, I would like to say that the Prime Minister would be well-advised and I am sure he has sought the correctness of this interpretation by the judiciary. It would be a tragedy of our times, if we allow this incident to snowball into an ugly verbal warfare which would only cause divided loyalties amongst Indians. There is no rightness or wrongness of the situation. It has been a culmination of so many years of exceeding the dignities and proprieties which have been prescribed to both. Let us in this House as befitting our status be aware of where we stand. What our rights are. There is no question of anyone breaching these privileges and we will uphold our own. The message will go out clearly. But let us also not indulge in excesses whereby we can allow some others to justify what they seem to deem as right. And the appeal will go to the judiciary that they will correct themselves and apply judicious caution and jurisprudence to their action and words. Thank you.

THE DEPUTY CHAIRMAN: As we try to do as Presiding Officers. Now, we will take up Special Mentions and other Zero Hour mentions.

उपसभापति: श्री ओ॰ पी॰ कोहली। मेरे हिसाब से अगर तीन-तीन मिनट में आप लोग अपनी बात कह लेंगे तो यह एक घंटे में खत्म हो जाएगा। अगर एक घंटे में खत्म नहीं करेंगे आप लोग तो those names which are listed but not cleared, will not be allowed. (*Interruptions*).

श्रीमति मारग्रेट आल्वा: मैडम, जीरो ऑवर का समय तो खत्म हो गया।

THE DEPUTY CHAIRMAN: I am allowing Mr. Kohli whose name is written before me. We are not having the lunch-hour to finish all these matters. We would be able to finish them in one hour.

SHRI SATISH AGARWAL: Madam, I seek your permission to leave the House for my lunch.

THE DEPUTY CHAIRMAN: You can go for lunch and come back. We have not suspended Members' lunch. We have only suspended the lunch-hour.

RE. GRUESOME MURDER OF FIVE MEMBERS OF A FAMILY IN SOUTH DELHI

श्री ओ॰ पी॰ कोहली (दिल्ली): उपसभापति महोदया, आज के समाचार पत्रों में एक दर्दनाक खबर प्रकाशित हुई है कि दक्षिणी दिल्ली के मालवीय नगर इलाके में कालड़ा परिवार के 5 सदस्यों की हत्या कर दी गई। परिवार में केवल एक सदस्य बचा है और वह भी घायल अवस्था में अखिल भारतीय आयुर्विज्ञान संस्थान में भर्ती है।

उपसभापति महोदया, दक्षिणी दिल्ली में इस प्रकार की हत्या की यह पहली घटना नहीं है, बराबर थोड़े-थोड़े अंतराल के बाद दक्षिणी दिल्ली में इस प्रकार की घटनाएं होती रहती है। पिछले दिनों भी दक्षिणी दिल्ली अखबारों के फोक्स में था जहां पर एक के बाद एक लगातार इस प्रकार की हत्या की घटनाएं हुईं। जब घटना घटित हो जाती है तो पुलिस सक्रिय होती है, लेकिन ऐसी घटनाओं की रोकथाम के लिए, उन्हें प्रिवेन्ट करने के लिए पुलिस का तंत्र काम नहीं करता, पुलिस सोई रहती है। उपसभापति महोदया, दिल्ली भारत की राजधानी है, महानगरी है और इस महानगरी में बहुत बड़े पैमाने पर, बहुत बड़ी तादाद में असामाजिक और अपराधिक प्रवृत्ति के तत्व सक्रिय हैं और एंटी सोशियल और क्रिमिनल एलीमेंट्स से निबटने के लिए पुलिस तंत्र बार-बार नाकाफी सिद्ध हुआ है, कामयाब नहीं हुआ है, असफल सिद्ध हुआ है। मैं आपके माध्यम से इस बात का जिक्र करना चाहता हूं कि दिल्ली में बहुत बड़े पैमाने पर फैले हुए, बढ़ते हुए अपराधों के कारण कानून-व्यवस्था की स्थिति चरमरा गई है, लोगों में असुरक्षा की भावना व्याप्त है। इसलिए इस बात की आवश्यकता है कि दिल्ली में कानून और व्यवस्था को मजबूत करने के लिए और लोगों में सुरक्षा की भावना बढ़ाने के लिए पुलिस तंत्र को मजबूत किया जाए, ऐसी घटनाओं की रोकथाम के लिए उपाय किए जाएं और साथ ही हमारा जो ज्यूडिश्यरी सिस्टम है, उसको भी सुधारा जाए ताकि हत्या जैसे जघन्य अपराधों के लिए जिम्मेदार अपराधी कानून के शिकन्जे से बच न सकें। उनके खिलाफ त्वरित दंड या सजा देने की कार्यवाही की जानी चाहिए। अनुभव में यह आता है कि हत्या जैसे जघन्य अपराधों में लिप्त लोग भी कानून के शिकंजे से बच निकलते हैं। उनके खिलाफ मुकदमें बरसों चलते रहते हैं और उन्हें दंड नहीं दिया जाता है। वे न्यायपालिका के शिकंजे से भी छूट निकलते हैं।

महोदया, मेरी समझ में नहीं आ रहा है कि कालरा परिवार में किसके प्रति संवेदना व्यक्त की जाए क्योंकि